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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.								
10/733,768	12/12/2003	Rainer Mielke	2560-0417	8742								
7590 Timothy J. Klima, Esq. Harbin King & Klima 500 Ninth Street SE Washington, DC 20003		12/14/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">SMITH, NICHOLAS A</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>1795</td><td></td></tr></table>		EXAMINER		SMITH, NICHOLAS A		ART UNIT	PAPER NUMBER	1795	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/733,768	<b>Applicant(s)</b> MIELKE, RAINER	
	<b>Examiner</b> Nicholas A. Smith	<b>Art Unit</b> 1795	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 7-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, see remarks, p. 8, filed 24 September 2007, with respect to claim 1 have been fully considered and are persuasive. The 35 USC 103(a) rejection of claims 1-2 and 4-6 has been withdrawn.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-9, 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derehag et al. in view of Tchugunov (US Patent 6,835,299).

4. Derehag et al. in view of Tchugunov is applied to the claims for the same reasons as stated in pp. 4-5 of the previous office action.

5. In regards to claim(s) 7 amendment "and the simultaneous circular feed and linear feed operate simultaneously with at least one of the circular oscillation and the linear oscillation," this limitation is related to the manner of operation of the claimed structure and, as such, has only been given patentable weight to the extent that the prior art must have had the capability of performing in the claimed fashion. See MPEP 2114. Derehag et al. in view of Tchugunov teaches an apparatus capable of performing the claimed simultaneous movement (Derehag et al., p. 9, lines 8-18; Tchugunov, col. 3, lines 36-48) and therefore meets the claimed limitation.

6. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derehag et al. in view of Tchugunov and further in view of Burns et al. (US Patent 4,851,090) as in applicant's information disclosure statement as submitted on 10/28/04.
7. Derehag et al. in view of Tchugunov and further in view of Burns et al. is applied to the claims for the same reasons as stated in pp. 5-6 of the previous office action.

***Allowable Subject Matter***

8. Claims 1-6 are allowed.
9. The following is an examiner's statement of reasons for allowance: In regards to claim(s) 1, the prior art does not disclose, teach or suggest a method of performing electrochemical machining with the machining steps of linear and circular feeding movements performed simultaneously with at least one of a circular oscillation or a linear oscillation. Derehag et al. does teach at least circular oscillation, but only after the linear and circular feeding movements have been finished (p. 9, lines 8-18). It would not have been obvious to oscillate the electrode tool while moving the tool along a predetermined path because Derehag et al. discloses such an oscillatory movement produces the desired structure after the electrode tool has reached its final position.
10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas A. Smith whose telephone number is (571)-272-8760. The examiner can normally be reached on 8:30 AM to 5:00 PM, Monday through Friday.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Susy Tsang-Foster can be reached on (571)-272-1293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Harry D. Wilkins, III/  
Harry D. Wilkins, III  
Primary Examiner  
Art Unit 1795

NAS